

House Bill 86

By: Representatives Benton of the 31st, Stovall of the 74th, Greene of the 151st, and Gambill of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 11 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, relating to complaints policy for teachers and other school personnel, so as to
3 provide that performance ratings contained in personnel evaluations are subject to complaint
4 for teachers who accepted a school year contract for the fourth or subsequent consecutive
5 school year; to provide for appeals hearings to be conducted by independent third parties; to
6 require local units of administration to submit copies of their complaint policies to the
7 Department of Education; to provide for related matters; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Part 11 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
12 relating to complaints policy for teachers and other school personnel, is amended by revising
13 Code Section 20-2-989.7, relating to matters not subject to complaint, as follows:

14 "20-2-989.7.

15 (a)(1) Except as otherwise provided in paragraph (2) of this subsection, the ~~The~~
16 performance ratings contained in personnel evaluations conducted pursuant to Code
17 Section 20-2-210, professional development plans, and job performance shall not be
18 subject to complaint under the provisions of this part; provided, however, that this shall
19 not apply to procedural deficiencies on the part of the local school system or charter
20 school in conducting an evaluation pursuant to Code Section 20-2-210.

21 (2) For teachers who have accepted a school year contract for the fourth or subsequent
22 consecutive school year, the performance ratings contained in personnel evaluations
23 conducted pursuant to Code Section 20-2-210, procedural deficiencies on the part of the
24 local school system or charter school in conducting an evaluation pursuant to Code
25 Section 20-2-210, and job performance shall be subject to complaint under the provisions
26 of this part.

(3) The termination, nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940, and the revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5, shall not be subject to complaint under the provisions of this part.

(b) A certified employee who chooses to appeal under Code Section 20-2-1160 shall be barred from pursuing the same complaint under this part."

SECTION 2.

Said part is further amended by revising Code Section 20-2-989.8, relating to establishment and contents of a local unit of administration complaint policy, as follows:

"20-2-989.8.

(a) Local units of administration shall establish a complaint policy that shall include the following:

(1) A statement that a complaint by the certified employee at the initial level shall be in writing and shall clearly state the intent of the employee to access the complaints policy.

All certified employees shall request in writing successive levels of review;

(2) A method and time frame for filing complaints and appeals, including successive levels of appeal, any of which may be conducted by an independent third party on behalf of the school official or local unit of administration, from the complainant's immediate supervisor to the central office administrator to the local unit of administration, provided that the complainant shall be entitled to file a complaint within ten days from the most recent incident upon which the complaint is based, and provided that the complainant shall have a minimum of ten days to file an appeal at any level up to and including the local unit of administration, and provided that the total time frame shall not exceed 60 days from the initiation of the complaint until notification to the complainant of the decision rendered by the local unit of administration;

(3) A statement setting forth the manner in which notice of the initial hearing and appeals shall be given;

(4) A statement that the complainant shall be entitled to an opportunity to be heard, to present relevant evidence, and to examine witnesses at each level;

(5) A provision whereby the complainant is entitled to the presence of an individual of his or her choice to assist in the presentation of the complaint to the central office administrator and at the local unit of administration level. The policy shall also include a provision whereby the presence of any individual other than the complainant and the administrator at any lower level is specifically prohibited. At the local unit of administration level nothing shall prevent the local unit from having an attorney present

to serve as the law officer who shall rule on issues of law and who shall not participate in the presentation of the case for the administrator or the complainant;

(6) Provisions for keeping an accurate record of the proceedings at each level, requiring the proceedings to be recorded by mechanical means, preserving all evidence, and requiring that these be made available at all times to the parties involved but which provisions do not permit the presence of a third person at any level below the central office administrator or local unit of administration level;

(7) A statement that the complainant cannot present additional evidence at each level of the complaint process unless it is submitted in writing by the complainant five days prior to the set date for the Level II and Level III hearing to the administrator presiding over the complaint. The board of the local unit of administration, when hearing an appeal from a prior complaint level, shall hear the complaint de novo;

(8) A statement that each decision be made in writing and dated. Each decision shall contain findings of fact and reasons for the particular resolution reached. The decision reached at each complaint level shall be sent to the complainant by certified mail or statutory overnight delivery or hand delivered by a person designated by the central office administrator within 20 days of the decision;

(9) A statement that any complaint not processed by the administrator or the local unit of administration within the time frames required by the local complaint procedure and this part shall be forwarded to the next level of the complaint procedure;

(10) A provision that all costs and fees shall be borne by the party incurring them unless otherwise agreed upon by the parties involved, except that the cost of preparing and preserving the record of the proceedings shall be borne by the local board of education; and

(11) A statement that a complainant shall not be the subject of any reprisal as a result of filing a complaint under this part. Should any reprisal occur, the complainant may refer the matter to the Professional Standards Commission.

(b) Each local unit of administration shall submit a copy of its complaint policy established pursuant to this Code section to the Department of Education no later than September 1, 2019, and anytime thereafter if material changes are made to such policy."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.